

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SERGIO L. SHAW,

Plaintiff,

v.

BRIAN NEUMAIER,

Defendant.

ORDER

09-cv-747-bbc

On July 28, 2010, I asked defendant's counsel to inform the court why an Employee Investigation Report and a written letter of reprimand were not found in defendant Neumaier's personnel file and where this documentation was found. Defendant's counsel has submitted copies of emails which indicate that: (1) The documentation was in the Human Resource Director's informal discipline file and not in Neumaier's personnel file; and (2) Although the letter of reprimand is placed in the officer's personnel file, it is removed after one year pursuant to the union contract. The court now understands why defendant's lawyer did not locate the disciplinary report initially, and in this case the court will take no further action.

However, it is puzzling that the Attorney General's Office was unaware until now of what appears to be a long-standing practice in the Department of Corrections distinguishing between personnel files and informal disciplinary files maintained by DOC's HR directors. The court expects this information to be shared among the assistant attorney generals representing DOC employees in prisoner lawsuits because hereafter, the court may be less forgiving of failures to sweep more broadly for such information when it is requested and discoverable.

Entered this 2nd day of August, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge